

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN

IN RE:

MARTHA ELAINE CARMEAN

DEBTOR.

HONORABLE SCOTT W. DALES
CASE NO. 19-03276-SWD
CHAPTER 13

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**MOTION OF SANTANDER CONSUMER USA INC. DBA CHRYSLER
CAPITAL FOR RELIEF FROM THE AUTOMATIC STAY AND FOR
WAIVER OF PROVISIONS OF FRBP 4001(a)(3)**

Santander Consumer USA Inc. dba Chrysler Capital ("Creditor"), pursuant to 11 U.S.C. §§ 361-363 and L. Bankr. R. 9013 and 4001-1 (W.D.M.), moves for relief from the Automatic Stay to permit foreclosure of its security interest on the Debtor's vehicle, to wit: 2019 Jeep Grand Cherokee bearing Vehicle Identification No. 1C4RJFBG4KC815630 and for waiver of the provisions of FRBP 4001(a)(3). This Motion is based on the following:

1. This Court has jurisdiction over the proceeding pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157.
2. On July 19, 2019, the Debtor entered into a Retail Installment Sales Contract with the Creditor, a copy of which is attached as Exhibit B.

3. On July 31, 2019 (the Petition date), Debtor filed a Voluntary Petition for Relief under Chapter 13 of the Bankruptcy Code.

4. The Chapter 13 Plan filed on August 5, 2019, states the Debtor will continue making direct payments to the Creditor.

5. On March 18, 2020, the Chapter 13 Plan was confirmed.

6. The account is past due for the March 2, 2020, payment for a total past due of \$3,236.78.

7. The Creditor has been unable to verify full-coverage insurance on the vehicle.

8. The Creditor holds a valid, perfected security interest in the above-mentioned vehicle.

9. Pursuant to 11 U.S.C. § 362(d)(2), the Debtor has no equity in the vehicle as the outstanding balance is greater than the fair market value.

10. Pursuant to 11. U.S.C. § 362(d)(1), the Debtor's continued use of the vehicle is denying the Creditor adequate protection.

11. The Creditor is entitled to relief from the Automatic Stay to foreclose upon its collateral, and to take all action necessary to protect its interest, pursuant to 11 U.S.C. § 362(d)(1) and (2).

12. The proposed Order for Relief from the Automatic Stay is attached as Exhibit A.

In conclusion, the Creditor requests the following:

(a) The entry of the attached Order for Relief from the Automatic Stay (Exhibit A); or

(b) In the event the Debtor provides proof of adequate insurance coverage on the subject vehicle, the entry of an order which modifies the automatic stay requiring the Debtor to continue to maintain said insurance on the subject vehicle throughout the pendency of the Chapter 13 Proceeding and should the Debtor fail

to do so, the Creditor shall be allowed to submit an Affidavit of Default to the Court and upon service of said affidavit on the Trustee, the automatic stay would be immediately terminated and the Debtor required to immediately surrender the subject vehicle to the Creditor; and

(c) In the event the Debtor brings her account current, the entry of an order which modifies the automatic stay requiring the Debtor to maintain the account with the Creditor current throughout the pendency of the Chapter 13 Proceeding and should the Debtor fail to do so, the Creditor shall be allowed to submit an Affidavit of Default to the Court and upon service of said affidavit on the Trustee, the automatic stay would be immediately terminated and the Debtor required to immediately surrender the subject vehicle to the Creditor; and

(d) Such other relief the Court deems necessary for the Creditor to protect its interest in its collateral and provide adequate protection.

O'REILLY RANCILIO P.C.

/s/ Craig S. Schoenherr, Sr.

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